

## ARTICLE 5. PAROLE AUTHORITY FOR JUVENILES

### Rule 1. Parole Procedures

#### 210 IAC 5-1-1 Definitions; administrative procedures

Authority: IC 11-13-6-2

Affected: IC 11-8-2-5; IC 11-13-6

Sec. 1. (a) The following definitions and administrative procedures shall be applicable in the operation of the paroling authority for juveniles:

“Commissioner” means the chief executive of the department.

“Chairperson” means the chairperson of the juvenile parole committee.

“Commitment” means an order of a juvenile court placing a juvenile offender in the care, custody, and wardship of the department of correction.

“Committee” means the juvenile parole committee.

“Department” means the department of correction.

“Discharge” means an unconditional release of an offender from a commitment.

“Hearing officer” means the administrative officer who conducts a preliminary hearing.

“Offender” means a delinquent offender, which is a person who is adjudged delinquent by a juvenile court and committed to the department of correction. This definition shall be deemed to include status offenders.

“Parole” means the conditional release of an offender to community supervision before the time of a mandatory and unconditional discharge from a commitment.

“Parole revocation hearing” means a formal hearing afforded an offender by the department to determine if a violation of the conditions of parole has occurred.

“Parole violation” means non-compliance to a condition of parole by an offender.

“Parole violator” means an offender who has violated a condition of parole.

“Preliminary hearing” means a hearing to determine whether probable cause exists to believe that a violation of a parole condition has occurred.

“Regular parole applicant” means an offender who has completed all institutional requirements as approved by the commissioner.

“Review” means a hearing granted by the parole committee to an offender who has not met institutional criteria for release recommendation.

“Special parole applicant” means an offender who has completed all institutional requirements as approved by the commissioner, but who was committed to the department for an offense against a person.

(b)(1) The committee shall be comprised of three (3) members. The chairperson shall be from the parole services section and the other two (2) members shall be from the institution where the committee is meeting.

(2) The commissioner shall appoint the chairperson; and the superintendent of the institution shall appoint the institutional members.

(3) The committee shall make all decisions relating to:

(A) parole release;

(B) parole revocation;

(C) discharge from parole;

(D) discharge from commitment.

(4) All decisions of the parole committee shall be by majority vote.

(5) The committee shall meet in accordance with a schedule approved by the chairperson. (*Department of Correction; 210 IAC 5-1-1; filed Apr 17, 1985, 9:45 am: 8 IR 1125; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

#### 210 IAC 5-1-2 Release recommendation by the institution; committee criteria for granting release

Authority: IC 11-13-6-2

Affected: IC 11-8-5; IC 11-13-6

Sec. 2. (a) Institutional criteria. (1) General requirements: Criteria for parole selection shall be based on the following:

committing offense, institutional adjustment, and achievement of treatment goals established according to the offender's individual needs. The treatment staff shall assist the offender in setting goals and shall review the offender's progress at regular intervals. Upon completion of institution/facility requirements as approved by the institution/facility head, the offender shall be recommended for parole consideration to the department of correction parole committee for juveniles.

(2) Early release recommendations: The institution/facility head, as guardian of the offender, may, upon the recommendation of the treatment staff, or at his own discretion, recommend an offender for release prior to the offender completing the general requirements.

(3) Special parole applicants—(offenses against person): The same criteria for release shall be utilized for all offenders. However, offenders who have committed an offense against a person shall be interviewed by the juvenile parole committee, which will make a decision regarding the offender's release.

(4) Discharge from commitment: A recommendation for discharge from commitment shall not be made to the parole committee unless the offender has attained the age of eighteen (18) at the time of recommendation. However, an offender may be recommended for discharge from commitment prior to attaining the age of eighteen (18), if special circumstances exist.

(b) Parole committee criteria. (1) Institutional adjustment: The parole applicant's overall adjustment in the institution including, but not limited to, academic progress, completion of treatment goals, work/study performance, and adherence to rules and regulations governing offenders.

(2) Past offense record: The parole committee shall review the applicant's past offense record as to the offender's potential for successful parole.

(3) Nature of offense: Circumstances surrounding the offense for which two (2) juveniles are currently committed. (*Department of Correction; 210 IAC 5-1-2; filed Apr 17, 1985, 9:45 am: 8 IR 1125; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

### **210 IAC 5-1-3 Parole or discharge; considerations, reviews, denials, conditions statement**

Authority: IC 11-13-6-2

Affected: IC 11-8-2-5; IC 11-8-5; IC 11-13-6

Sec. 3. (a) Procedure for considering parole or discharge of regular parole applicants: (1) The head of each juvenile institution or facility shall prepare a list of all offenders eligible for release consideration and shall transmit such list to the chairperson.

(A) The list shall be prepared weekly.

(B) The list shall contain a recommendation concerning parole or discharge.

(2) The chairperson shall review such list and consider each offender's attainment of release criteria. The chairperson shall then make a determination as to each offender's parole, discharge, or need to appear before the parole committee. The chairperson shall return to the institutional head the approved list with a signed parole release agreement, or a signed discharge certificate, on those offenders authorized for release.

(3) Those offenders whose release has not been approved by the chairperson shall be interviewed by the juvenile parole committee. The committee shall then make a decision regarding the offender's release.

(b) Procedure for considering parole or discharge for special parole applicants: (1) Offenders who have completed institutional criteria for release but who were committed for an offense against a person, shall be interviewed by the juvenile parole committee. This includes, but is not limited to, offenses, the nature of which includes arson, robbery, rape, child-molesting, kidnapping, homicide, battery, and attempt or conspiracy to commit such an act.

(2) Based upon the interview and the parole committee criteria, the committee shall then make a decision regarding the offender's release.

(c) Mandatory review: (1) Offenders who have not received an institutional recommendation for parole or discharge shall have their cases reviewed and be interviewed by the juvenile parole committee at least every twelve (12) months.

(2) Based upon the mandatory interview and institution and parole committee criteria, the committee shall make a decision regarding the offender's release.

(d) Prior to the committee making a determination to grant or deny parole, the offender shall be provided by the housing institution or facility with the following: (1) At least seven (7) days (excluding Saturday, Sunday, or holidays) advance written notice that he is being considered for release.

(2) Access in accordance with IC 11-8-5 to records and reports to be considered by the committee in making the release

determination.

(3) An opportunity to appear before the committee, speak in his own behalf and present documentary evidence.

(e) In all cases where parole is denied, the chairperson shall give the offender written notice of the denial and the reason for denial: (1) No offender may be denied parole solely on the basis that appropriate quarters are not available in the community to which he will return.

(2) No offender will be denied parole without an interview. The interview shall be conducted by the juvenile parole committee.

(f) The commissioner, by authority vested in him under IC 11-8-2-5(b)(2), may delegate the authority to discharge offenders from commitment to a member of a parole committee. When a release from commitment is by discharge, the commissioner, or his designee, shall certify the discharge to the clerk of the committing court.

(g) When an offender is released on parole he shall be given a written statement of the conditions imposed by the department. Signed copies of this statement shall be forwarded to any person charged with his supervision and retained by the department: (1) The conditions shall be signed by the chairperson of the committee.

(2) The housing institution shall explain the conditions of parole to the offender, the offender shall acknowledge receipt of the conditions by his signature, and the offender's signature shall be witnessed.

(3) The parole conditions for offenders released from juvenile institutions shall be as follows:

(A) I will report within twenty-four (24) hours after my arrival at my destination either by mail, telephone, or personal visit, as directed to my supervising parole agent.

(B) I will faithfully comply with any orders and conditions imposed by the department of correction.

(C) I will obey all laws (state, federal, and local ordinances).

(D) I agree not to associate with persons with a previous criminal record, or adjudicated delinquents, including both adults and juveniles currently on parole or probation, unless otherwise authorized by my supervising parole agent.

(E) I agree to be gainfully employed when work is available, if not in a full-time school program.

(F) I understand that I must consult with my supervising parole agent for permission to:

(i) open a bank checking account;

(ii) borrow money or go into debt;

(iii) purchase an automobile in my name;

(iv) obtain a driver's license;

(v) possess and/or use any firearms;

(vi) change my residence or school program;

(vii) marry or file for divorce;

(viii) travel outside counties adjacent to my county or *[sic.]* residence or outside the state of Indiana.

(G) I understand that placement failure or the need for medical attention or psychiatric or psychological evaluation is cause for return temporarily to the institution.

(H) I agree to participate in any special treatment program established by the department of correction for juvenile parolees upon the recommendation and approval of the chairperson of the juvenile parole committee.

(4) The committee may impose special stipulations to parole. These conditions shall be made a part of the official record on each offender involved. The offender shall be given a copy of these conditions. The committee may also impose special stipulations to parole at any time during the parole period upon recommendation of the parole agent. The offender shall be given notice and a copy of these conditions. (*Department of Correction; 210 IAC 5-1-3; filed Apr 17, 1985, 9:45 am; 8 IR 1126; readopted filed Nov 15, 2001, 10:42 a.m.; 25 IR 1269*)

#### **210 IAC 5-1-4 Parole revocation**

Authority: IC 11-13-6-2

Affected: IC 11-8-2-5; IC 11-13-6; IC 33-1-7-2

Sec. 4. (a) Procedure for conducting preliminary hearings: (1) A parole agent shall submit a written report of alleged parole violation to the assistant supervisor of parole, juvenile, when reasonable suspicion exists to believe the parolee has violated the conditions of parole.

(2) The assistant supervisor of parole, juveniles, shall review the report of alleged violation and determine whether or not a warrant should be issued. If a warrant should be issued a hearing officer shall be assigned to conduct the preliminary hearing.

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(A) The commissioner, by authority vested in him under IC 11-8-2-5(b) may delegate this authority to issue warrants to the assistant supervisor of parole, juveniles.

(B) The hearing officer conducting the preliminary hearing shall be a person other than the one who reported, or investigated, the alleged violation.

(3) The hearing officer shall, upon receipt of notification to schedule a preliminary hearing, provide the offender and his parents, guardians, or custodians written notice of:

(A) the date, time, and place of hearing;

(B) the parole conditions alleged to have been violated;

(C) the procedures and rights applicable to that hearing;

(D) if probable cause is found to exist, his right to a revocation hearing and the procedures and rights applicable to that hearing;

(E) the possible sanctions if a violation is found.

(4) In connection with the preliminary hearing the offender is entitled to:

(A) appear and speak in his own behalf;

(B) call witnesses and present documentary evidence;

(C) confront and cross-examine witnesses, unless the hearing officer finds that to do so would subject the witness to a substantial risk of harm; and have a written statement of the findings of fact and the evidence relied upon.

(5) The offender's parents, guardians, or custodians are entitled to be present at the hearing.

(6) If the hearing officer determines that there is not probable cause to believe that the offender violated a condition of his parole, the charge shall be dismissed.

(7) If the hearing officer determines from the evidence presented that there is probable cause to believe that the offender violated a condition of parole, but in his or her judgment the hearing officer does not feel that it is sufficient reason for return to the institution, the hearing officer may continue the offender on parole. However, if there is a special condition of the continuance, the condition must be discussed with, and approved by, the chairperson of the parole committee prior to its having effect.

(8) If the hearing officer determines from the evidence presented that there is probable cause to believe that the offender violated a condition of his parole and the offender should appear before the parole committee for a revocation hearing, the offender shall be arrested on the department's warrant and returned to a juvenile institution pending a parole revocation hearing.

(9) In a case where the alleged violation of parole is based on a criminal conviction or a delinquency adjudication, the preliminary hearing need not be held.

(10) Unless good cause for the delay is established in the record of the preliminary hearing, the parole violation charge shall be dismissed if the preliminary hearing is not held within ten (10) days after the date of arrest on the department's warrant.

(b) Procedures for conducting parole revocation hearings: (1) An offender confined at a juvenile institution due to an alleged violation of parole conditions shall be afforded a parole revocation hearing by the juvenile parole committee within sixty (60) days of his or her arrest on the department's warrant. An alleged parole violator who is not confined prior to the parole revocation hearing shall be afforded such a hearing within 180 days after the order was issued for his appearance or the date of his arrest on the parole violation warrant, whichever is earlier.

(2) Within 48 hours of an offender's return to a juvenile institution, (excluding Saturday, Sunday, or holidays) as an alleged parole violator, the institution shall notify the offender that he or she has the right to be represented by counsel at a revocation hearing and, if indigent, to have counsel appointed for him or her.

(A) The offender shall sign a statement indicating his or her understanding of right to counsel, and whether he or she desires to have counsel represent him or her at the revocation hearing.

(B) If the offender desires to be represented by counsel, but cannot afford such representation, the housing institution shall notify the public defender's office that the parolee desires counsel at the revocation hearing.

(3) The housing institution shall provide the offender and his parents, guardian, or custodian written notice of the revocation hearing at least seven (7) days in advance of the hearing. The written notice shall include:

(A) the date, time, and place of the hearing;

(B) the parole conditions alleged to have been violated;

(C) the procedures and rights applicable to such hearing;

(D) the possible sanctions if a violation is found.

(4) The offender shall be afforded those safeguards enumerated in (a)(4) of this section and may offer evidence in mitigation

of the alleged violation.

(5) The offender's parents, guardians, or custodians are entitled to be present at the revocation hearing, and shall be so advised by the housing institution.

(6) If it is determined from the evidence presented that the offender did not commit a violation of the conditions of parole, the charge shall be dismissed.

(7) If the committee finds that the offender did violate a condition of parole, it may continue the offender on parole, with or without modifying the conditions, or revoke the parole and order the offender confined.

(A) If the offender is continued on parole, with modified conditions, he or she shall be given written notification of the modifications.

(B) If parole is revoked, the committee shall inform the offender that he or she will be reconsidered for parole on a specific date, or that he or she be reconsidered when he or she again completes the institutional criteria for release.

(8) The chairperson shall provide the parolee with a written statement of the reasons for the committee's action if parole is revoked.

(9) Unless good cause for the delay is established in the record of the revocation hearing, the revocation charge shall be dismissed if the revocation hearing is not held within the time limits established in (b)(1) of this section.

(10) The parole committee shall consider the following at a revocation hearing:

(A) Community *[sic.]* adjustment: The alleged violator's overall community adjustment shall be considered including, but not limited to, school or work, completion of parole goals, and previous violations committed while on parole.

(B) Past offense record: The alleged parole violator's past juvenile history shall be considered, along with the nature of his committing offense.

(C) Nature of current violation: The exact nature of the violation committed by the alleged parole violator and the events and circumstances surrounding the violation shall be considered.

(11) The procedures contained in (b) of this section shall be deemed to apply to parole revocation hearings when the alleged parole violator was not confined due to the alleged parole violation prior to the revocation hearing. (*Department of Correction; 210 IAC 5-1-4; filed Apr 17, 1985, 9:45 am: 8 IR 1127; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269*)

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